

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GERON LEE HARRISON,

Plaintiff,

v.

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS,

Defendant.

CASE NO. C12-1360JLR-JPD

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING ALL CLAIMS
AGAINST STATE OF
WASHINGTON DEPARTMENT
OF CORRECTIONS

I. INTRODUCTION

This matter comes before the court on the Report and Recommendation of United States Magistrate Judge James P. Donohue (R&R (Dkt. # 21)), and Plaintiff Geron Lee Harrison's objections thereto (1st Objection (Dkt. # 23); 2d Objection (Dkt. # 24)). Having carefully reviewed all of the foregoing, along with all other relevant documents and the governing law, the court ADOPTS the Report and Recommendation (Dkt. # 21), DISMISSES Mr. Harrison's federal constitutional claims against Defendant State of

1 Washington Department of Corrections (“DOC”) with prejudice, and DISMISSES Mr.
2 Harrison’s state law claims against DOC without prejudice.

3 **I. BACKGROUND**

4 Mr. Harrison is proceeding *in forma pauperis* in this civil rights action brought
5 under 42 U.S.C. § 1983 against DOC and two employees of that agency. (*See* Dkt. ## 7,
6 8.) In response to DOC’s motion to dismiss all claims against it, Magistrate Judge
7 Donohue recommended that the federal claims against DOC be dismissed with prejudice
8 based on immunity from suit under the Eleventh Amendment. (R&R at 2-3.) Magistrate
9 Judge Donohue also recommended that Mr. Harrison’s pendent state law claims against
10 DOC be dismissed without prejudice. (*Id.* at 3.)

11 In response to the Report and Recommendation, Mr. Harrison contends that
12 Magistrate Judge Donohue is prejudiced against him because Magistrate Judge Donohue
13 denied his motion to appoint counsel. (*See* Objection (Dtk. # 23).) He also contends that
14 DOC improperly served its answer to his complaint, its notice of appearance, and a
15 certificate of service upon him. (*See* Objections (Dkt. # 24).)

16 **II. STANDARD OF REVIEW**

17 A district court has jurisdiction to review a Magistrate Judge’s report and
18 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). “The district judge must
19 determine de novo any part of the magistrate judge's disposition that has been properly
20 objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole or in part,
21 the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).
22 The court reviews de novo those portions of the report and recommendation to which

specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). “The statute makes it clear that the district judge must review the magistrate judge’s findings and recommendations de novo if objection is made, but not otherwise.” *Id.* When no objections are filed, the court need not review de novo the report and recommendation. *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). Because Mr. Harrisoin is proceeding *pro se*, this court must interpret his complaint and objections liberally. *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d 920, 925 (9th Cir. 2003).

III. DISCUSSION

Neither of Mr. Harrison’s objections respond to the issues addressed by Magistrate Judge Donohue’s Report and Recommendation concerning DOC’s Eleventh Amendment immunity from suit and the disposition of Mr. Harrison’s pendent state claims against DOC. Moreover, the court has thoroughly examined the law and record before it and finds that Mr. Harrison’s objections are without factual support and legally insufficient with respect to the issue of Eleventh Amendment immunity. Finally, the court finds persuasive Magistrate Judge Donohue’s reasoning concerning DOC’s immunity from suit under the Eleventh Amendment and the dismissal of any pendent state law claims against DOC in light of the record and law.

IV. CONCLUSION

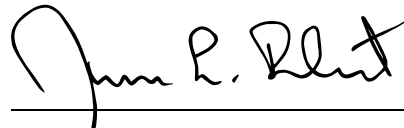
For the foregoing reasons, the court hereby ORDERS as follows:

(1) The court ADOPTS the Report and Recommendation (Dkt. # 11) in its entirety.

1 (2) Defendants' motion to dismiss DOC (Dkt. # 19) is GRANTED. All federal
2 constitutional claims asserted against DOC are DISMISSED with prejudice. All pendent
3 state law claims against DOC are DISMISSED without prejudice.

4 (3) The court DIRECTS the Clerk to send copies of this Order to Mr. Harrison, to
5 counsel for Defendants, and to Magistrate Judge Donohue.

6 Dated this 29th day of March, 2013.

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10 JAMES L. ROBART
United States District Judge